



1 to exhaust all grounds for relief in state court. (ECF No. 11). Judgment was entered on May 22,  
2 2008. (ECF No. 12). By order filed February 7, 2011, this Court denied petitioner's motion to  
3 vacate judgment pursuant to Fed. R. Civ. P. 60(b) and re-open this action. (ECF No. 25). To  
4 exhaust a claim, petitioner must have "fairly presented" that specific claim to the Supreme Court of  
5 Nevada. *See Picard v. Conner*, 404 U.S. 270, 275-76 (1971); *Schwartzmiller v. Gardner*, 752  
6 F.2d 1341, 1344 (9th Cir. 1984). Petitioner admitted, in pleadings to this Court, that motions and  
7 appeals related to the conviction challenged in the instant federal habeas proceeding were still  
8 pending in state court, as review had not concluded. (ECF Nos. 6 & 7). The Court's dismissal of  
9 this action without prejudice was proper. Moreover, the denial of petitioner's October 6, 2010  
10 motion to vacate judgment and reopen this action was proper. (ECF No. 25). The Court further  
11 notes that petitioner has filed another federal habeas action in this Court at case number 3:09-cv-  
12 00454-LRH-VPC. No reasonable jurist could conclude that the Court's orders were in error.  
13 Petitioner is not entitled to a certificate of appealability.

14 **IT IS THEREFORE ORDERED** that petitioner's application for a certificate of  
15 appealability (ECF No. 27) is **DENIED**.

16 **IT IS FURTHER ORDERED** that the Clerk shall send a copy of this order to the United  
17 States Court of Appeals for the Ninth Circuit.

18 Dated this 22nd day of July, 2011.



21 LARRY R. HICKS  
22 UNITED STATES DISTRICT JUDGE  
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